

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 644

**Introduced by Senators Correa, Ackerman, Harman, Margett, and
Wyland**

(Coauthors: Assembly Members DeVore, Duvall, Huff, Silva, Solorio,
Spitzer, and Tran)

February 22, 2007

An act to amend ~~Sections 674 and 708.780~~ *Section 674* of the Code of Civil Procedure, to amend ~~Section 4506 of,~~ to add ~~Section 17400.2 to,~~ and to add and repeal ~~Section 4506.4 of,~~ the Family Code, and to amend ~~Section 2191.3~~ of the Revenue and Taxation Code, relating to court records.

LEGISLATIVE COUNSEL'S DIGEST

SB 644, as amended, Correa. Court records: social security numbers.

Existing law requires an abstract of a judgment or decree requiring the payment of money to contain, among other things, the social security number and driver's license number of the judgment debtor if they are known to the judgment creditor, as specified. ~~Upon the filing of an abstract or certified copy of a judgment for relief, existing law requires the clerk of the court to issue a notice of support arrearage, which contains, among other things, the judgment debtor's social security number.~~

Existing law requires an abstract of a judgment ordering a party to pay spousal, child, or family support to contain, among other things, the social security number, birth date, and driver's license number of the party who is ordered to pay support, as specified.

Property tax law authorizes a county tax collector to file specified liens on unsecured property for delinquent taxes, which filing for record without fee may contain the assessee’s social security number, if known.

This bill would delete the requirement that the above-described abstracts, notice, and filings contain the social security number of the judgment debtor, party ordered to pay support, or assessee, and instead require only the last 4 digits of that person’s social security number. ~~The bill would require the Judicial Council to revise the abstract of judgment form to conform to the above requirements by April 1, 2008, and would also require every local child support agency to implement and comply with those requirements, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 674 of the Code of Civil Procedure is
- 2 amended to read:
- 3 674. (a) Except as otherwise provided in Section 4506 of the
- 4 Family Code, an abstract of a judgment or decree requiring the
- 5 payment of money shall be certified by the clerk of the court where
- 6 the judgment or decree was entered and shall contain all of the
- 7 following:
- 8 (1) The title of the court where the judgment or decree is entered
- 9 and cause and number of the action.
- 10 (2) The date of entry of the judgment or decree and of any
- 11 renewals of the judgment or decree and where entered in the
- 12 records of the court.
- 13 (3) The name and last known address of the judgment debtor
- 14 and the address at which the summons was either personally served
- 15 or mailed to the judgment debtor or the judgment debtor’s attorney
- 16 of record.
- 17 (4) The name and address of the judgment creditor.
- 18 (5) The amount of the judgment or decree as entered or as last
- 19 renewed.
- 20 (6) The last four digits of the social security number and driver’s
- 21 license number of the judgment debtor if they are known to the
- 22 judgment creditor. If either or both of those sets of numbers are
- 23 not known to the judgment creditor, that fact shall be indicated on
- 24 the abstract of judgment.

1 (7) Whether a stay of enforcement has been ordered by the court
2 and, if so, the date the stay ends.

3 (8) The date of issuance of the abstract.

4 (b) An abstract of judgment, recorded after January 1, 1979,
5 that does not list the social security number and driver's license
6 number of the judgment debtor, or either of them, as required by
7 subdivision (a) or by Section 4506 of the Family Code, may be
8 amended by the recording of a document entitled "Amendment to
9 Abstract of Judgment." The Amendment to Abstract of Judgment
10 shall contain all of the information required by this section or by
11 Section 4506 of the Family Code, ~~shall list both the last four digits~~
12 ~~of the social security number and driver's license number if both~~
13 ~~of those sets of numbers were known at the date of recordation of~~
14 ~~the original abstract of judgment, or one of them, if only one was~~
15 ~~known~~, and shall set forth the date of recording and the book and
16 page location in the records of the county recorder of the original
17 abstract of judgment.

18 A recorded Amendment to Abstract of Judgment shall have
19 priority as of the date of recordation of the original abstract of
20 judgment, except as to any purchaser, encumbrancer, or lessee
21 who obtained their interest after the recordation of the original
22 abstract of judgment but prior to the recordation of the Amendment
23 to Abstract of Judgment without actual notice of the original
24 abstract of judgment. The purchaser, encumbrancer, or lessee
25 without actual notice may assert as a defense against enforcement
26 of the abstract of judgment the failure to comply with this section
27 or Section 4506 of the Family Code regarding the contents of the
28 original abstract of judgment notwithstanding the subsequent
29 recordation of an Amendment to Abstract of Judgment. With
30 respect to an abstract of judgment recorded between January 1,
31 1979, and July 10, 1985, the defense against enforcement for failure
32 to comply with this section or Section 4506 of the Family Code
33 may not be asserted by the holder of another abstract of judgment
34 or involuntary lien, recorded without actual notice of the prior
35 abstract, unless refusal to allow the defense would result in
36 prejudice and substantial injury as used in Section 475. The
37 recordation of an Amendment to Abstract of Judgment does not
38 extend or otherwise alter the computation of time as provided in
39 Section 697.310.

1 (c) (1) The abstract of judgment shall be certified in the name
2 of the judgment debtor as listed on the judgment and may also
3 include the additional name or names by which the judgment debtor
4 is known as set forth in the affidavit of identity, as defined in
5 Section 680.135, filed by the judgment creditor with the application
6 for issuance of the abstract of judgment. Prior to the clerk of the
7 court certifying an abstract of judgment containing any additional
8 name or names by which the judgment debtor is known that are
9 not listed on the judgment, the court shall approve the affidavit of
10 identity. If the court determines, without a hearing or a notice, that
11 the affidavit of identity states sufficient facts upon which the
12 judgment creditor has identified the additional names of the
13 judgment debtor, the court shall authorize the certification of the
14 abstract of judgment with the additional name or names.

15 (2) The remedies provided in Section 697.410 apply to a
16 recorded abstract of a money judgment based upon an affidavit of
17 identity that appears to create a judgment lien on real property of
18 a person who is not the judgment debtor.

19 ~~SEC. 2. Section 708.780 of the Code of Civil Procedure is~~
20 ~~amended to read:~~

21 ~~708.780. (a) Filing of the abstract or certified copy of the~~
22 ~~judgment and the affidavit pursuant to this article creates a lien on~~
23 ~~the money owing and unpaid to the judgment debtor by the public~~
24 ~~entity in an amount equal to that which may properly be applied~~
25 ~~to the satisfaction of the money judgment under this article.~~

26 ~~(b) When an affidavit is filed pursuant to subdivision (c) of~~
27 ~~Section 708.730, it shall apply to all claims for refund from the~~
28 ~~Franchise Tax Board under the Personal Income Tax Law, Part~~
29 ~~10 (commencing with Section 17001) of Division 2 of the Revenue~~
30 ~~and Taxation Code, or the Bank and Corporation Tax Law, Part~~
31 ~~11 (commencing with Section 23001) of Division 2 of the Revenue~~
32 ~~and Taxation Code, which the judgment debtor subsequently claims~~
33 ~~during a period one year after filing of the affidavit, or October 1~~
34 ~~of the year following the filing of the affidavit, whichever occurs~~
35 ~~later, the same as if claims for these overpayments were filed by~~
36 ~~the judgment debtor with the appropriate state agency on the date~~
37 ~~the affidavit was filed.~~

38 ~~(c) When a request is filed pursuant to subdivision (d) of Section~~
39 ~~708.730 with the court, the clerk of the court shall issue a Notice~~
40 ~~of Support Arrearage. The clerk of the court shall issue the notice~~

1 30 days after the request was filed pursuant to subdivision (d) of
2 Section 708.730 without a hearing if no objection has been raised
3 by the judgment debtor pursuant to this subdivision. If an objection
4 has been raised, the notice shall not be ordered until after a hearing.
5 The notice shall contain the name of the person ordered to pay
6 support and the last four digits of his or her social security number;
7 the amount of the arrearage determined by the court; whether the
8 arrearage is for child, spousal, or family support and the specific
9 combination thereof; a statement of how the recipient may
10 challenge the statement of arrearage; and the name, address, and
11 last four digits of the social security number of the person to whom
12 the arrearage is owed. Upon the clerk of the court issuing the Notice
13 of Support Arrearage, a copy of the request, the affidavit, and the
14 notice shall be served by the party who requested the court to issue
15 the Notice of Support Arrearage upon the person ordered to pay
16 support and the Controller. Service may be personal, in accordance
17 with Section 1011, or by mail, in accordance with Section 1013.
18 Service upon the Controller shall be at the Controller's office in
19 Sacramento.

20 The judgment debtor may object to the request or affidavit upon
21 any of the following grounds: (1) there is an error in the amount
22 of the arrearage stated in the affidavit; (2) the alleged judgment
23 debtor is not the judgment debtor from whom the support is due;
24 (3) the amount to be intercepted exceeds that allowable under
25 federal law; (4) a default in payment of the support for 30 days
26 has not occurred; or (5) other necessary factual allegations
27 contained in the affidavit are erroneous.

28 Upon receipt of the Notice of Support Arrearage, the Controller
29 shall take reasonable measures to deduct from any personal income
30 tax refunds and lottery winnings owed and processed for payment
31 to the judgment debtor and deposit with the court a warrant, subject
32 to Sections 708.770 and 708.775, with service of a copy of the
33 warrant upon the local child support agency of the county in which
34 the support judgment is entered, payable to the court, the amount
35 due the judgment creditor (after deducting an amount sufficient
36 to reimburse the state for any amounts advanced to the judgment
37 debtor or owed by the judgment debtor to the state) required to
38 satisfy the money judgment as shown by the affidavit in full or to
39 the greatest extent, and pay the balance thereof, if any, to the
40 judgment debtor. At any hearing pursuant to Section 708.770, the

1 judgment debtor may challenge the distribution of these funds on
2 exemption or other grounds, including, but not limited to, an
3 allegation that the judgment has been satisfied or that service was
4 improper. The notice shall not apply to any money which is exempt
5 by law from execution. The Controller shall determine the cost of
6 enforcing the notice and may establish a notice filing fee not to
7 exceed five dollars (\$5).

8 Service of the Notice of Support Arrearage and of the request
9 and affidavit pursuant to this subdivision creates a lien on the
10 money owing and unpaid to the judgment debtor which shall
11 become effective 30 days following service upon the Controller.
12 This notice shall remain in effect for four years from the date of
13 its issuance or until the arrearage for which the notice was issued
14 is satisfied, whichever occurs first.

15 Any person who files a request with the court to issue a Notice
16 of Support Arrearage pursuant to subdivision (d) of Section
17 708.730 shall notify the court and the Controller of any satisfaction
18 of the arrearage after the Notice of Support Arrearage has been
19 issued by the clerk of the court. The notice to the court and the
20 Controller shall be filed with the court and the Controller and
21 served upon the local child support agency of the county in which
22 the support judgment is entered within 30 days of the satisfaction
23 or discharge and shall show a partial or full satisfaction of the
24 arrearage or any other resolution of the arrearage.

25 Upon filing and service, the Notice of Support Arrearage shall
26 be of no force and effect.

27 The State Department of Social Services shall, upon request,
28 inform the Legislature of the use and effect of this subdivision on
29 or before December 31, 2001.

30 This subdivision shall become operative on January 1, 1996,
31 and shall become inoperative on December 31, 2001.

32 (d) For purposes of this section, "support" means an obligation
33 owing on behalf of a child, spouse, or family, or combination
34 thereof.

35 SEC. 3. Section 4506 of the Family Code is amended to read:

36 4506. (a) An abstract of a judgment ordering a party to pay
37 spousal, child, or family support to the other party shall be certified
38 by the clerk of the court where the judgment was entered and shall
39 contain all of the following:

- 1 ~~(1) The title of the court where the judgment is entered and the~~
2 ~~cause and number of the proceeding.~~
- 3 ~~(2) The date of entry of the judgment and of any renewal of the~~
4 ~~judgment.~~
- 5 ~~(3) Where the judgment and any renewals are entered in the~~
6 ~~records of the court.~~
- 7 ~~(4) The name and last known address of the party ordered to~~
8 ~~pay support.~~
- 9 ~~(5) The name and address of the party to whom support~~
10 ~~payments are ordered to be paid.~~
- 11 ~~(6) The last four digits of the social security number, birth date,~~
12 ~~and driver's license number of the party who is ordered to pay~~
13 ~~support. If any of those numbers are not known to the party to~~
14 ~~whom support payments are to be paid, that fact shall be indicated~~
15 ~~on the abstract of the court judgment.~~
- 16 ~~(7) Whether a stay of enforcement has been ordered by the court~~
17 ~~and, if so, the date the stay ends.~~
- 18 ~~(8) The date of issuance of the abstract.~~
- 19 ~~(9) Any other information deemed reasonable and appropriate~~
20 ~~by the Judicial Council.~~
- 21 ~~(b) The Judicial Council may develop a form for an abstract of~~
22 ~~a judgment ordering a party to pay child, family, or spousal support~~
23 ~~to another party which contains the information required by~~
24 ~~subdivision (a).~~
- 25 ~~(c) Notwithstanding any other provision of law, when a support~~
26 ~~obligation is being enforced pursuant to Title IV-D of the Social~~
27 ~~Security Act, the agency enforcing the obligation may record a~~
28 ~~notice of support judgment. The notice of support judgment shall~~
29 ~~contain the same information as the form adopted by the Judicial~~
30 ~~Council pursuant to subdivision (b) and Section 4506.1. The notice~~
31 ~~of support judgment shall have the same force and effect as an~~
32 ~~abstract of judgment certified by the clerk of the court where the~~
33 ~~judgment was entered. The local child support agency or other~~
34 ~~Title IV-D agency shall not be subject to any civil liability as a~~
35 ~~consequence of causing a notice of support judgment to be~~
36 ~~recorded.~~
- 37 ~~(d) As used in this section, "judgment" includes an order for~~
38 ~~child, family, or spousal support.~~
- 39 ~~SEC. 4. Section 4506.4 is added to the Family Code, to read:~~

1 4506.4. ~~(a) On or before April 1, 2008, the Judicial Council~~
2 ~~shall revise the abstract of judgment form, where applicable, to~~
3 ~~require only the last four digits of a judgment debtor's social~~
4 ~~security number.~~

5 ~~(b) This section shall remain in effect only until January 1, 2009,~~
6 ~~and as of that date is repealed, unless a later enacted statute, that~~
7 ~~is enacted before January 1, 2009, deletes or extends that date.~~

8 SEC. 5. ~~Section 17400.2 is added to the Family Code, to read:~~

9 17400.2. ~~Every local child support agency shall ensure that~~
10 ~~every abstract of judgment form generated by that agency and filed~~
11 ~~with the court pursuant to this article contains, where applicable,~~
12 ~~only the last four digits of a judgment debtor's social security~~
13 ~~number.~~

14 SEC. 6.

15 SEC. 2. Section 2191.3 of the Revenue and Taxation Code is
16 amended to read:

17 2191.3. (a) The tax collector may make the filing specified in
18 subdivision (b) where either of the following occurs:

- 19 (1) There is a tax on any of the following:
 - 20 (A) A possessory interest secured only by a lien on that taxed
 - 21 possessory interest.
 - 22 (B) Goods in transit, not secured by any lien on real property.
 - 23 (C) Improvements that have been assessed pursuant to Section
 - 24 2188.2.
 - 25 (D) Off-roll taxes on escape assessments where the error was
 - 26 not the fault of the assessee and the escape taxes are being paid
 - 27 pursuant to Section 4837.5.
 - 28 (E) Unsecured property not secured by a lien on any real
 - 29 property, and where the tax has become delinquent or where there
 - 30 are prior unpaid and delinquent taxes with respect to that same
 - 31 property.

32 (2) A tax has been entered on the unsecured roll pursuant to
33 Section 482, 531.2, or 4836.5, or transferred to the unsecured roll
34 pursuant to any provision of law.

35 (b) A filing for record without fee in the office of the county
36 recorder of any county of a certificate specifying the amount due,
37 the name, the last four digits of his or her federal social security
38 number, if known, and last known address of the assessee liable
39 for the amount, and compliance with all provisions of this division
40 with respect to the computation and levy of the tax if compliance

1 has in fact occurred. The procedure authorized by this section is
2 cumulative to the procedure provided by Sections 2951 and 3003.
3 The county recorder shall, within 30 days after a filing as described
4 in this subdivision with respect to delinquent taxes on unsecured
5 property, send a notice of the filing to the assessee at the assessee's
6 last known address. The notice shall contain the information
7 contained in the filing, and shall prominently display on its face
8 the following heading:

9

10 “THIS IS TO NOTIFY YOU THAT A TAX LIEN HAS BEEN
11 FILED WITH RESPECT TO UNSECURED PROPERTY”

12

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